

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

UNITED STATES OF AMERICA ) DOCKET NO. 1:19CR064  
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 )  
 vs. )  
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 )  
 ELLEN MADANS FROST )  
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 )

**NOTICE PURSUANT TO RULE 404(b)**

NOW COMES the United States of America, by and through R. Andrew Murray, United States Attorney for the Western District of North Carolina, who hereby gives notice that the United States intends to seek to introduce during the trial of this case evidence of other acts of the defendant to establish, *inter alia*, opportunity, intent, plan, knowledge, and absence of mistake or accident.

That evidence will show that in January 2014, an official at Charles D. Owen High School<sup>1</sup> sent an email to the defendant, in her capacity as a County Commissioner, to inform her of a project to construct a barn to house animals used for the school's animal science classes and its FFA chapter, and to solicit her assistance in obtaining funding. On February 11, 2014, the Owen High School

<sup>1</sup> Charles D. Owen High School is located in eastern Buncombe County, within the electoral district represented by the defendant.

official sent a detailed estimate to the defendant of the costs for the project, which, depending on whether fencing was included, would be either \$17,500 or \$20,000.

The defendant informed Wanda Greene, the County Manager, of her desire to have the County provide the requested funding, and she forwarded to Greene the estimate. Greene responded by email: “Want us to send the \$17,500 or the \$20K?” The defendant replied: “20 because they can finish everything. Thanks.”

As per this agreement between the defendant and Greene, Greene caused \$20,000 of County money to be transferred for the project. As both the defendant and Greene knew, no other Commissioners were informed of this expenditure, nor did the Board of Commissioners vote on it. It was initiated and accomplished entirely on the instructions of the defendant.

On March 18, 2014, however, the principal at Owen High School sent an email to the entire Board of Commissioners as well as Greene in which she thanked them all for the County funding, and noted that she was surprised at how quickly the money had come. A few minutes later, Greene forwarded that email to the defendant alone, stating: “Wish she hadn’t done this. I didn’t bring it to the Board.”

The defendant quickly responded: “I know.”

Later that same evening, another Commissioner sent Greene an email asking: “What is [the principal] talking about???” Greene quickly—and falsely—responded: “She got some animal service money to help the horse population. It’s

next to the existing barn. The students are going to participate in animal care through a school program.”

This other Commissioner replied immediately, asking: “Was it via a school appropriation or a special allocation from BCC [that is, the Board of County Commissioners]?” As Greene and the defendant knew, the money had come neither from a school appropriation nor from any special allocation approved by the Board of Commissioners.

Greene forwarded that email chain to the defendant, suggesting: “How about I say it came through AHS [that is, Asheville Humane Society] contract dollars?” The evidence will show that this cover story was also false, and that the money did not come from any Humane Society contract. Neither the defendant nor Greene ever informed the other Commissioners of the fact that this County money was spent entirely as a result of an undisclosed agreement between the defendant and the County Manager.

As discussed in a legal memorandum that the Government is submitting simultaneously with this Notice, the evidence summarized in this Notice is admissible because it is relevant to, and probative of, the defendant’s opportunity, intent, plan and knowledge, and to rebut any defense of mistake or accident.

Respectfully submitted, this 27th day of September, 2019.

R. ANDREW MURRAY  
UNITED STATES ATTORNEY

/s/ Richard Lee Edwards

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